UNITED STATES PATENT AND TRADEMARK OFFICE

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ROSS D. SNYDER & ASSOCIATES, INC.
PO BOX 164075
AUSTIN, TX 78716-4075

EXAMINER
CHOI, PETER H

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	09/834,834	PARMASAD ET AL.
Office Action Summary	Examiner	Art Unit	
	PETER CHOI	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>13 November 2008</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-39</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-39</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 13, 2009 has been entered.

Response to Amendment

2.   In the response filed November 13, 2008, claims 1 and 35 have been amended and claims 1-39 are currently pending.

Response to Arguments

3.   Applicant's arguments with respect to claim 35 have been considered but are moot in view of the new ground(s) of rejection.

       Specifically, the Applicant argues claim 35 as amended, necessitating the new grounds of rejection.

4.   Applicant's arguments filed November 13, 2008 have been fully considered but they are not persuasive.

Generally, the Applicant's arguments with respect to claims 1-39 fail to comply

with 37 CFR 1.111(b) because they amount to a general allegation that the claims

define a patentable invention without specifically pointing out how the language of the

claims patentably distinguishes them from the references. Contrary to the Applicant's

assertions, the arguments submitted by the Applicant fail to cite specific features of the

claims that were not present in the cited reference, nor do said arguments specifically

point out how the language of the claims patentably distinguishes them from the

reference. As per 37 CFR 1.111(b), and further noted by Applicant:

> (b) In order to be entitled to reconsideration or further examination, the
> applicant or patent owner must reply to the Office action. The reply by the
> applicant or patent owner must be reduced to a writing which ***distinctly and
> specifically points out the supposed errors in the examiner's action*** and
> must reply to every ground of objection and rejection in the prior Office action.
> ***The reply must present arguments pointing out the specific distinctions
> believed to render the claims***, including any newly presented claims,
> ***patentable over any applied references***. If the reply is with respect to an
> application, a request may be made that objections or requirements as to form
> not necessary to further consideration of the claims be held in abeyance until
> allowable subject matter is indicated. The applicant's or patent owner's reply
> must appear throughout to be a *bona fide* attempt to advance the application or
> the reexamination proceeding to final action. ***A general allegation that the
> claims define a patentable invention without specifically pointing out how
> the language of the claims patentably distinguishes them from the
> references does not comply with the requirements of this section.***

The Applicant's arguments mainly comprise of an assertion that the cited

reference fails to teach entire limitations of the claimed invention, followed by a

summarization of the portions of the reference cited by the Examiner; this is deemed to

be a general allegation that the claims define a patentable invention without specifically

pointing out how the language of the claims patentably distinguishes them from the references. As cited above, the arguments submitted by Applicant with respect to claims 1-39 are not deemed to comply with the requirements of 37 CFR 1.111(b). The arguments presented by the Applicant are not deemed to "distinctly and specifically point out the supposed errors in the examiner's action", nor "present arguments pointing out the specific distinctions believed to render the claims…patentable over any applied references". The manner of arguments presented by the Applicant makes it unclear what the Applicant is asserting as patentably distinguishable from the cited references. However, this Office Action will attempt to respond to the arguments presented by the Applicant, as best understood by the Examiner.

The Applicant's argument that presenting arguments that cite specific features of the claims that were not deemed by the Applicant to be present in the cited portions of the cited reference satisfies the requirements of 37 CFR 1.111(b) is incorrect. The references must be considered as a whole, and not within a vacuum or limited to the portions cited by the Examiner. As per MPEP 2141.02,

> Ascertaining the differences between the prior art and the claims at issue requires interpreting the claim language, and considering both the invention and the prior art references as a whole

As to claim 1, Applicant argues that Bayer et al. fails to disclose "generating a database identifying a plurality of eligible voters, the database including an email address and an indication of the number of voters for each eligible voter".

The Examiner respectfully disagrees. Bayer et al. teaches a database identifying a plurality of eligible voters, the database including an email address and an indication of the number of votes for each eligible voter (database 15 stores voting information; Access table 43 records for each voter to the voting site of system 10. The VoteLog table 44 defines a log for each voter with the voting site of system 10; each record of VoteLog table 44 has the following data fields…VoteCookie, a Voting Digital ID generated by the network server 12 used for determining when a voter has worked previously for a survey in a voting campaign; registration campaign includes the E-mail address of the registrant 168; each record of the Users table 186 has the following data fields: E-mail, the E-mail address of a registrant associated with this record) {each voter is allowed 1 vote per campaign, as evidenced by the VoteCookie ID that checks for previous votes by a voter in a particular voting campaign} [Column 6, line 66-67, Column 7, line 21-26, Column 10, lines 26-37; Column 19, lines 25-28, Column 22, lines 47-51].

Official Notice

In the previous Office Action mailed December 6, 2005, notice was taken by the Examiner that certain subject matter is old and well known in the art. Per MPEP 2144.03(c), these statements are taken as admitted prior art because no adequate traversal of this statement that created a reasonable doubt regarding the circumstances justifying the Official Notice was made in the subsequent response. Specifically, these instances of Official Notice have been admitted as prior art:

- It is old and well known in the surveying/electoral arts that there are a myriad of issues in any election.

- It is common knowledge that users who have registered for elections are subject to receiving relevant documentation, commonly in electronic formats

- It is old and well known in the art that either a HTTPS protocol or a SSL protocol can be used to handle secure communication between a web server and a web browser. It is common knowledge that the HTTPS protocol typically handles credit card transactions and other sensitive data. It is also common knowledge that the SSL protocol is designed to provide privacy between a web server and a web browser by authenticating the server (and sometimes the client) uses an algorithm to encrypt data. It is old and well known in the art that such security measures are compatible with web browsers and are used by websites that typically transmit sensitive data.

- It is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the received votes and determine a winner.

- It is old and well known in the voting arts that in traditional voting systems, votes are tallied at voting centers and the ballots are then sent to a central facility in case of a recount, and that, similarly, electronic voting systems also tally votes, and subsequently forward ballots to a proxy party (such as a transfer agent) for independent recounting and management of ballots to ensure that ballots are not tampered with and to confirm the voting results

- It is old and well known in the art that email messages containing confidential and sensitive data, such as financial information (credit card and bank account numbers), and personal identification (social security numbers) are encrypted and transmitted through a secure connection to a network server.

- It is common knowledge that, if the transfer agent is assigned the responsibility of tallying the votes to determine the winner, then whenever voting information is received during the predetermined voting time period, it should be sent to the transfer agent for tallying. Invalid votes are not taken into consideration when determining the winner.

- It is old and well known in the voting arts that invalid votes need not to be sent to a transfer agent.

- It is common knowledge that elections occur during a predetermined voting period, as they are not indefinite events. It is old and well known in the art that any system used to conduct elections would have some means accepting votes only during the predetermined voting period, disregarding any votes received after this period and ceasing to accept additional completed voting forms. It is old and well known in the voting arts that voters who failed to register or vote during the predetermined voting time will not have their votes tallied in determining the winner. It is common knowledge that eligible nonvoters have no "default" selections, as they did not participate in the election.

- Means of transferring electronic data are old and well known in the art (including electronic data interchange, file transfer protocol, compact disc, floppy disk etc).

It is old and well known in the art that the role of transfer agents is to tally all the votes cast for the voting issue, or simply to store results after all votes have been tallied. It is common knowledge that records of elections must be maintained to verify election results, especially in case of recounts. It is also common knowledge that, without a backup copy of the elections, there is the risk of losing existing data (file corruption, hard drive crashing, hacked by external entities, etc.).

- It is old and well known in the computing arts that the essential idea of an Intranet is that is uses Local Area Network (LAN) technologies to facilitate communication between people and improve the knowledge base of an organization's employees. Intranets can include mail servers based on low cost Internet technology. Two pieces of software must run on the mail server. First, Simple Mail Transfer Protocol (SMTP) server software is required to communicate with other mail servers to transfer mail between mail servers. A Post Office Protocol (POP) server is required to communicate with the end users computers for reading and sending mail. On an Intranet, network administrators can prescribe access and policy for a fixed group of users. Intranets make use of Internet technologies within an organization to achieve better results that the conventional means of data access and transfer, while cutting costs and providing easy and fast access to information. The network firewalls that surround an Intranet prevent unauthorized access. Transfer agents are usually

independent parties not in the organization, and would therefore be prohibited from accessing the intranet to view websites or receive email.

- An internal network (such as an Intranet) would be used to deliver email messages and website access to locally networked users, and that an external network (such as the Internet) would be used to deliver email messages to non-local, non-networked users.

- It is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the votes and determine a winner

- Voting information corresponding to eligible voters is used in producing a voting result. Regardless of who tallies the results, it is an old and well known practice that the process would involve the step of compiling the voting information (adding received answers to information stored in a database) from the validated voters to produce the voting result.

- It is old and well known in the art that email messages containing confidential and sensitive data, such as financial information (credit card and bank account numbers), and personal identification (social security numbers) are encrypted and transmitted through a secure connection to a network server.

- It is old and well known in the art that Intranets are secure internal networks that can include mail servers based on low cost Internet technology. It is common knowledge that transfer agents are usually independent parties not in the organization, and would therefore be prohibited from accessing the intranet to

view websites or receive email, so the use of external networks would inherently

be required to deliver email messages.

- It is old and well known in the art that data servers are integral parts of

  transferring electronic information and data. It is also old and well known in the

  art that the role of transfer agents in the election process is to store tallied

  results, or to tally the votes and determine a winner.

- Voting information corresponding to eligible voters is used in producing a voting

  result. Regardless of who tallies the results, it is an old and well known practice

  that the process would involve the step of compiling the voting information

  (adding received answers to information stored in a database) from the validated

  voters to produce the voting result.

The Examiner notes that these statements of Official Notice (which have been

admitted as prior art) listed above are not currently being applied to any of the pending

claims.

In the Office Action mailed August 8, 2007, notice was taken by the Examiner that

certain subject matter is old and well known in the art. Specifically, it was taken that:

- Using hyperlinks to provide additional related documentation is old and well

  known in the art

- The use of secure data communication protocols is old and well known in the

  computing arts

- The use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art

- Email encryption is old and well known in the art

- Absentee ballots are an old and well known mechanism in the voting arts used by registered voters who are unable to vote at an official polling station

- It is old and well known in the computing arts that email and website access may be provided using internal and/or external networks

Evidentiary support for these takings of Official Notice were provided in the Office Action mailed May 7, 2008. Thus, these statements have been admitted as prior art.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6.   Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-17 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to a particular machine or apparatus or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584,

588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94

U.S. 780,787-88 (1876). If neither of these requirements is met by the claim, the method

is not a patent eligible process under 35 U.S.C. 101 and is non-statutory subject matter.

An example of a method claim that would <u>not</u> qualify as a statutory process

would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory

process, the claim should positively recite the other statutory class (the thing or product)

to which it is tied, for example by identifying the apparatus that accomplishes the

method steps, or positively recite the subject matter that is being transformed, for

example by identifying the material that is being changed to a different state. Nominal

recitations of structure in an otherwise ineligible method fail to make the method a

statutory process. The use of a specific machine or transformation of an article must

impose meaningful limits on the claim's scope to impart patent-eligibility. See Benson,

409 U.S at 71-72. Further, the involvement of the machine or transformation in the

claimed process must not merely be insignificant extra-solution activity. See Flook, 437

U.S at 590. Incidental physical limitations, such as data gathering, field of use

limitations, and extra-solution activity is not enough to convert an abstract idea into a

statutory process. In other words, nominal or token recitations of structure in a method

claim do not convert an otherwise ineligible claim into an eligible one.

Although claim 1 recites a database and sending email messages to eligible

voters, these recitations are deemed to be directed towards insignificant extra-solution

activity, as explained above. The steps of providing notification, validating voter identity,

receiving voting information, and compiling voting information are not cited as being tied

to a particular machine or apparatus.

Dependent claims 2-17 merely add further details of the voting result determining

process as recited in claim 1 without including any tie to a particular machine or

apparatus nor any transformation of subject matter into a different state or thing.

Here, applicant's method steps, fail the first prong since they are not tied to a

particular machine or apparatus and can be performed without the use of a particular

machine or apparatus. Thus, claims 1-17 are non-statutory.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8.   Claims 1 – 3, 5, 7, 9 - 10, 16, 18 - 24, 26 - 28, and 33 are rejected under 35

U.S.C. 102(b) as being anticipated by Bayer et al. (U.S Patent #6,311,190).

As per claim 1, Bayer et al. teaches a method for determining a voting result for a

voting issue, comprising:

generating a database identifying a plurality of eligible voters, the database

including an email address and an indication of the number of votes for each eligible

voter **(database 15 stores voting information; Access table 43 records for each**

voter to the voting site of system 10. The VoteLog table 44 defines a log for each

voter with the voting site of system 10; each record of VoteLog table 44 has the

following data fields…VoteCookie, a Voting Digital ID generated by the network

server 12 used for determining when a voter has worked previously for a survey

in a voting campaign; registration campaign includes the E-mail address of the

registrant 168; each record of the Users table 186 has the following data fields: E-

mail, the E-mail address of a registrant associated with this record) {each voter is

allowed 1 vote per campaign} [Column 6, line 66-67, Column 7, line 21-26, Column

10, lines 26-37; Column 19, lines 25-28, Column 22, lines 47-51];

providing notification of a voting website to the plurality of eligible voters, wherein

the notification is provided via an email message sent to each eligible voter of the

plurality of eligible voters, wherein the notification provides the plurality of eligible voters

with access to the voting website **(an invitation 57b may be a hyperlink to the URL of**

a voting campaign embedded in a page offered by another site to a network client

computer 18 or contained in E-mail) [Column 13, lines 56-58 and Column 18, lines

55-60];

for each eligible voter of the plurality of eligible voters that accesses the voting

website, validating identity of the eligible voter to produce a validated voter **(The**

registrant is authenticated if the user name and password entered matches the

retrieved nickname and password (step 242); cookies are used by network server

12 to determine if the voter has already voted in the campaign; if a record found

in the VoteLog table and a VoteCookie matches the Voting Digital ID associated

with present survey and voting campaign, the voter cannot vote again in step 70)

[Column 14, lines 28-32, 42-46, 58-63, Column 28, lines 13-14; Figure 4];

receiving voting information **(answers to survey questions)** from validated

voters [Claim 1]; and

compiling the voting information **(adding received answers to information**

stored in a database) from the validated voters to produce the voting result [Claim 5].

As per claims 2 and 19, Bayer et al. teaches the method of claim 1, wherein the

email message provided to each eligible voter includes a hyperlink **(an invitation 57b**

may be a hyperlink to the URL of a voting campaign embedded in a page offered

by another site to a network client computer 18 or contained in E-mail) to the

voting website [Column 13, lines 56-58].

As per claims 3 and 20, Bayer et al. teaches a method where registration

information about users, such as their email address **(element 168 of Figure 15, E-**

mail address of the registrant 168), can be obtained from a database **(database 15**

stores registration information) [Column 19, lines 24-32] and may be used to

generate an email message to eligible voters **(solicit voters to a particular voting**

campaign by e-mail with a hyperlink to the URL of a voting campaign; After step

256… an E-mail message is prepared and sent to the registrant's E-mail address

with a confirmation of the registration, and the user may be sent a page from the

template at the ThankYouURL address of the registration campaign in the

registrant's language with a thank you for registering message (step 260)) using

the email address retrieved [Column 18, lines 58-60, Column 30, lines 37-45, Figure

15].

As per claims 5 and 24, Bayer et al. teaches the method of claim 1 wherein

providing the plurality of eligible voters with access to the voting website further

comprises:

sending an email message to potential voters **(solicit voters to a particular**

voting campaign {through invitation 57b} by e-mail with a hyperlink to the URL of

a voting campaign) [Column 13, lines 56-58, Column 18, lines 45-60] wherein the

email message provided to each eligible voter includes a hyperlink **(URL)** to the voting

website [Column 13, lines 56-58, Column 18, lines 45-63];

receiving consent **(registration)** information corresponding to at least a portion of

the plurality of potential voters based on responses **(Registration involves the**

network server sending to a user a registration questionnaire page for a

registration campaign dynamically constructed in accordance with the

registration information stored in the database 15, and receiving and storing the

answers to the registration questions on the questionnaire; The registration

campaign includes a registration questionnaire having several questions 164, the

user name and assigned password of the registrant 166, the E-mail address of the

registrant 168, and any after registration actions) provided by the at least a portion

of the plurality of potential voters via the consent (registration campaign) website [Column 19, lines 2-30]; and

determining the plurality of eligible voters **(authenticating validation)** from the at least a potion of the plurality of potential **(registered)** voters based on the consent information **(registration information; user name and password entered matches the retrieved nickname and password of a registered user)** [Column 28, lines 13-14].

As per claims 7 and 26, Bayer et al. teaches the method of claim 1, wherein validating identify of the eligible voter to produce a validated voter further comprises:

receiving a user identity **(step 240 – requesting the registrant to enter their user name)** from the eligible voter;

receiving a password **(step 240 – requesting the registrant to enter their password)** from the eligible voter;

comparing the password with a stored password corresponding to the user identity **(step 242 – the registrant is authenticated if the user name and password entered matches the retrieved nickname and password)** to produce a comparison result, wherein when the comparison result is favorable, the eligible voter is validated to produce a validated voter [Column 28, lines 5-25].

As per claims 9 and 27, Bayer et al. teaches the method of claim 1, wherein validating identity of the eligible voter to produce a validated voter further comprises:

detecting an electronic certificate **(VoteCookie, a Voting Digital ID generated by the network server 12 used for determining when a voter has voted previously for a survey in a voting campaign)** stored on a host device **(host computer)** associated with the eligible voter; and

comparing the electronic certificate **(VoteCookie)** with a validation certificate **(VoteLog table)** stored in a database to produce a comparison result, wherein when the comparison result is favorable **(no voting record found in the VoteLog table)**, the eligible voter is validated **(indicating that the user has not yet voted)** to produce a validated voter [Column 10, lines 26-30 and Column 14, lines 14-50].

As per claim 10, Bayer et al. teaches the method of claim 1, wherein compiling the voting information further comprises storing the voting information in a database **(information stored in said database further comprises the answers to each survey received from each voter, and adding the received answers to the information stored in the database)** [Claims 4-6].

As per claims 16 and 33, Bayer et al. teaches the method of claim 1 wherein providing the plurality of eligible voters with access to the voting website further comprises:

providing a consent notification **(sending an email message)** to a potential voter of a plurality of potential voters, wherein the consent notification notifies the potential voter of the consent website **(network server 12 operates in accordance with software representing programmed instructions providing a voting site 22 and a**

registration site 24 on network 20; at the registration site on the network 20,

pages, preferably in HTML, are provided to a connected network client computer

18 enabling a voter or other registrant, to register with system 10 in their

preferred language; the network server automatically creates a unique URL for

the new voting campaign, such that a voting campaign is accessed by a voter by

requesting a connection to the network server 12 at this URL. The URL is stored

in the ReferrLink data field of the vote-campaign record. The administrator may

then assign a link to the registration site. When a registration campaign is created

(added), a network site address (URL) is created by and on the network server

12.. This URL is returned as information to the administrator at the registration

site's administrative interface, who may record it for future reference. It is this

URL which the administrator may provide to store in the ReferrLink field to assign

a registration campaign. It accomplishes the hyperlinkage between the voting site

and the associated registration campaign at the registration site, if desired;

Similar to a voting campaign, each registration campaign has an assigned URL.

An embedded hyperlink to a particular URL of an associated registration

campaign may be provided in the results page provided by the voting site, such

that a voter at the voting site may link (connect) to the associated registration

campaign at the registration site. The registration campaigns at the registration

site operate independently of voting campaigns in system 10, but provide a

means of obtaining registration information about voters which may be used to

later solicit voters {via invitation 57b} to a particular voting campaign, such as by

E-mail with hyperlink to the URL of a voting campaign. Similar to a voting

campaign, the URL of a registration campaign may be in an embedded hyperlink

offered to a visitor of another site on the network) [Column 5, lines 42-44, 53-58,

Column 12, lines 6-24, Column 18, lines 45-63];

receiving consent **(registration)** information corresponding to at least a portion of

the plurality of potential voters based on responses **(user name, password and email**

address) provided by the at least a portion of the plurality of potential voters via the

content **(registration)** website [Column 19, lines 24-30]; and

determining the plurality of eligible voters **(authenticating validation)** from the at

least a potion of the plurality of potential **(registered)** voters based on the consent

(registration) information [Column 28, lines 13-14].

As per claim 18, Bayer et al. teaches a voting management processor,

comprising:

a processing module **(computer system represented by network server 12)**;

and

memory **(element 14 of Figure 1)** operably coupled to the processing module,

wherein the memory stores operating **(programmed)** instructions that, when executed

by the processing module, cause the processing module to perform functions that

include:

providing notification of a voting website to a plurality of eligible voters,

wherein the notification is provided via an email message sent to each eligible voter of

the plurality of eligible voters, wherein the notification provides the plurality of eligible

voters with access to the voting website **(an invitation 57b may be a hyperlink to the**

URL of a voting or registration campaign embedded in a page offered by another

site to a network client computer 18 or contained in E-mail) [Column 13, lines 56-58

and Column 18, lines 55-63];

for each eligible voter of the plurality of eligible voters that accesses the

voting website, validating **(authenticating)** identity of the eligible **(registered)** voter to

produce a validated voter **(step 242)** [Column 28, lines 13-14];

receiving voting information **(answers to survey questions)** from

validated voters [Claim 1]; and

compiling the voting information **(adding received answers to**

information stored in a database) from the validated voters to produce the voting

result [Claim 5].

As per claim 21, Bayer et al. teaches the voting management processor of claim

20, wherein the voter database **(database 15 of Figure 1 storing voting information,**

such as VoteLog table 44 that defines a log for each voter with the voting site of

system 10 and Tally table 46 records a tally of the vote totals for each of the

answers to the questions for each survey; EMAIL ADDRESS 168; The registration

campaign 162 includes the E-mail address of the registrant 168) is stored in the

memory **(element 14 of Figure 1)** [Figures 1 and 15, and Column 5, lines 12-15,

Column 6, lines 66-67, Columns 7-10, Column 19, lines 25-28].

As per claim 22, Bayer et al. teaches the voting management processor of claim 20, wherein the voter database **(database 15)** is accessed by the voting management processor **(computer system operating in accordance with software; database 15 is stored on memory 14, and transaction server 16 is connected to the memory 14 which enables the network server 12 to access and update records in tables of the database 15. The network server 12 enables network connections to computers 18 through a network 20, such as the Internet or World Wide Web; each of the computers 18 represents a network client when connected to network server 12, such that the network server 12 performs tasks at the commands of the network client)** over a network **(network server 12 and network 20; network server 12 is coupled to transaction server 16; administrator computer 17 connects to network server 12 via network 20; The network server 12 can send data representing transactions to the transaction server 16 to either access (read, retrieve, search, or query) records in a particular table, or update (add, modify or delete) a record in a particular table of the database; An administrator computer 17, like computers 18, can connect to the network server 12, via network 20. Alternatively, the administrator computer 17 can connect directly to the network server 12 by a LAN 19 to which both the network server 12 and administrator computer 17 are connected)** [Figure 1; Column 5, lines 10-18, 25-28, 39-40, 42-44, Column 5, line 65 – Column 6, line 2, Column 6, lines 11-22].

As per claim 23, Bayer et al. teaches the voting management processor of claim 20, wherein the memory stores additional **(programmed)** instructions such that the

functions performed by the processing module **(network server 12 operates in accordance with software representing programmed instructions providing a voting site 22 and a registration site 24 on network 20; transaction server 16 represents a computer system connected to memory 14 and programmed in accordance with database software; The system of Bayer et al. embodies a system that includes a programmed computer system representing at least one network server which provides an addressable voting site and registration site on the network, and a database storing voting information for dynamically building surveys. A computer of each of the voters is programmed with network browser software such that a connection to the network server over the network can be established at one of the multiple Universal Resource Locators addressing the voting site)** include providing a plurality of hyperlinks on the voting website, wherein a first hyperlink of the plurality of hyperlinks directs an eligible voter to a voting page **(URL of a registration/voting campaign)** and a second **(embedded)** hyperlink of the plurality of hyperlinks directs the user to documentation related to the voting issue **(URL of an associated campaign)** [Column 2, lines 38-54, Column 5, lines 42-44, 59-61 and Column 18, lines 49-55].

As per claim 28, Bayer et al. teaches the voting management processor of claim 18, wherein compiling the voting information further comprises storing the voting information **(whether or not a voter voted and who they voted for)** in the memory **(multiple records in tables of database 15 store voting information. The voting information includes records stored in eighteen tables 30-47, as shown in Figures**

3A-3R. The VoteLog table 44 defines a log for each voter with the voting site)

[Column 6, line 66 – Column 7, line 24, Column 14, lines 36-50, Figure 3O].

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

11.   Claims 4, 6, 8, 11 – 15, 17, 25, 29 – 32, and 34 are rejected under 35

U.S.C. 103(a) as being unpatentable over Bayer et al.

As per claim 4, Bayer et al. teaches the method of claim 1 further comprising providing a hyperlink on the voting website, wherein a first hyperlink of the plurality of hyperlinks directs an eligible voter to a voting page **(URL of a registration/voting campaign)** and a second **(embedded)** hyperlink of the plurality of hyperlinks directs the user to documentation related to the voting issue **(URL of an associated campaign)** [Column 18, lines 49-55].

Although the hyperlinks of Bayer et al. do not explicitly direct the user to documentation related to a voting issue, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that using hyperlinks to providing additional related documentation is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include the step of providing additional related documentation, because doing so enhances the voting campaign sites of Bayer et al. by providing a central repository for voters to obtain information needed to make informed decisions.

Further, one of ordinary skill would have recognized that using hyperlinks to provide additional related information would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the use of hyperlinks to the teachings of Bayer et al. would have yielded predictable results because the level of ordinary skill in the art demonstrated by Bayer et al. shows the ability to incorporate such features in an online, web-based system that relies upon

URLs to direct users towards registration and voting campaign web pages. Applying

hyperlinks to provide additional related information would have been recognized by

those of ordinary skill in the art as resulting in an improved system that would provide

users with convenient access to relevant information that is made available to all voters,

eliminating the need for each user to conduct individual research, thus providing more

informed voters to made an informed decision when voting.

     As per claims 6, 17, 25 and 34, Bayer et al. teaches the method of claim 5,

consent information includes consent to vote electronically and consent to receive

documentation electronically **{Bayer et al. teaches user participation in surveys over**

a computer-based network; thus, the user registration to participate in said

surveys is indicative of the user's consent to receive electronic documentation,

such as survey questions}, wherein at least one hyperlink is provided on the voting

website, wherein a first hyperlink directs an eligible voter to a voting page **(URL of a**

registration/voting campaign) when the eligible voter has consented to vote

electronically **{the act of registration is deemed to be an act of consenting to**

electronic voting}, and a second **(embedded)** hyperlink directs the eligible voter to

documentation related to the voting issue **(URL of an associated campaign)** when the

eligible voter has consented to receive documentation electronically [Column 18, lines

49-55].

     As per claim 8, although Bayer et al. authenticates users upon receiving user

name and password **(network server sends a page to the registrant requesting the**

registrant to enter their user name and password, step 240. The registrant is
authenticated if the user name and password entered matches the retrieved
nickname and password, step 242) [Column 28, lines 9-15], Bayer et al. does not
explicitly teach that this is performed using a secure data communication protocol.

However, it has been admitted as prior art, as a result of evidentiary support of
Official Notice taken that the use of secure data communication protocols is old and well
known in the computing arts. For example, the Secure Sockets Layer (SSL) and
Hypertext Transfer Protocol over Secure Socket Layer (HTTPS) protocols are used to
encrypt electronic data communications. Therefore, it would have been obvious to one
of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al.
to use a secure data communication protocol because doing so enhances Bayer et al.
by providing secure communications for authentication and encrypting communication
in security-sensitive communication such as logons or voting.

Further, one of ordinary skill would have recognized that using a secure data
communication protocol to authenticate users would have yielded predictable results
and resulted in an improved system. Applying a secure data communication protocol to
the teachings of Bayer et al. would have been recognized by those of ordinary skill in
the art as resulting in an improved system that would allow a secure means of
authenticating users to prevent tampering and forgery.

As per claims 11 and 29, Bayer et al. teaches the storing the voting information **(answers to survey questions received from each voter)** [Claim 5], generating of email messages **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** [Column 18, lines 58-60], and tallying votes to determine winners **(received answers to the questions are added to records in the database tallying the totals for each response… a summary of the results of the survey is then constructed and transmitted to the voter's computer)** [Abstract], but does not explicitly teach the step of sending email messages including voting information corresponding to at least one eligible voter to a transfer agent, or the compiling of voting information (to produce the voting result) being performed by a transfer agent.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

Further, one of ordinary skill would have recognized that using email to send

transfer agents the voting information necessary to compile said voting information

would have yielded predictable results and resulted in an improved system. Applying

the use of emails to provide transfer agents with the information needed to compile

voting results would have been recognized by those of ordinary skill in the art as

resulting in an improved system that would allow a digital means of providing transfer

agents with the voting information they need to compile voting results at a central

location, eliminating the need for a transfer agent to be present at each voting location.

As per claims 12 and 30, Bayer et al. is silent regarding the encryption of an

email message prior to sending the at least one transfer agent email message to the

transfer agent.

However, it has been admitted as prior art, as a result of evidentiary support of

Official Notice taken that email encryption is old and well known in the art. Therefore, it

would have been obvious to one of ordinary skill to modify the teachings of Bayer et al.

by including the encryption of email messages, because doing so enhances Bayer et al.

by ensuring voter privacy and preventing tampering with election results.

Further, one of ordinary skill would have recognized that using email data

encryption to send emails with voting information to transfer agents would result in an

improved system. Applying email encryption to the teachings of Bayer et al. would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a secure providing information while preventing tampering and forgery.

As per claims 13 and 31, Bayer et al. teaches the storing the voting information **(answers to survey questions received from each voter)** [Claim 5], generating of email messages **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** [Column 18, lines 58-60], tallying votes to determine winners **(received answers to the questions are added to records in the database tallying the totals for each response... a summary of the results of the survey is then constructed and transmitted to the voter's computer)** [Abstract], and having default settings **(setting a default language for the voting campaign if a voter does not select a language defined for the campaign)** [Column 8, lines 57-59] and disclosing default voting information corresponding to eligible voters that failed to vote using the voting website **(DefaultFlag, a bit indicating whether or not this response should be preselected, i.e., checked or otherwise denoted as an answer on the questionnaire for purposes of assisting the registrant when the response is generally true for most registrants; DefaultFlag is a bit defining that the response should be prefilled with the value of MinValue "1" or not prefilled "0")** [Column 22, lines 5-9, 19-21], but does not explicitly teach the step of sending email messages including voting information corresponding to at least one eligible voter to a transfer agent.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

Further, one of ordinary skill would have recognized that sending transfer agents the voting information necessary to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of emails to provide transfer agents with the information needed to compile voting results would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

Further, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that absentee ballots are an old and well known mechanism in the

voting arts used by registered voters who are unable to vote at an official polling station. For example, postal voting may be used to count the votes cast by registered voters who are unable to vote via a voting website on the Internet. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include voting information corresponding to eligible voters that failed to vote using the voting website, because doing so expands the ability of Bayer et al. to collect voter feedback by improving voter turnout and increasing the amount of feedback in determining a winner.

One of ordinary skill would have recognized that the use of absentee ballots would have yielded predictable results and resulted in an improved system. Applying the use of absentee ballots to the teachings of Bayer et al. would have been recognized by those of ordinary skill in the art as resulting in an improved system that would provide potential voters with an opportunity to participate in elections even when unable to physically participate during the actual voting period, or unable to vote via a voting website.

As per claims 14 and 32, Bayer et al. teaches the storing the voting information in a database **(answers to survey questions received from each voter)** [Claim 5], and generating email messages **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** [Column 18, lines 58-60], but

does not explicitly teach the step of transferring the contents of a database to a transfer
agent.

However, it has been admitted as prior art, as a result of evidentiary support of
Official Notice taken that the use of transfer agents to oversee the polling and counting
of votes in an election are old and well known in the art. For example, banks and voting
officials act as proxies that administer elections, tally votes, and determine winners.
Therefore, it would have been obvious to one of ordinary skill in the art at the time of
invention to modify the teachings of Bayer et al. to include emailing messages including
voting information to transfer agents for compilation and determination of a winner,
because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so
that received votes can be tallied and verified and a winner can be determined while
ensuring that ballots are not tampered with in case of a need of a recount.

Further, one of ordinary skill would have recognized that sending transfer agents
the voting information necessary to compile said voting information would have yielded
predictable results and resulted in an improved system. Applying the use of emails to
provide transfer agents with the information needed to compile voting results would
have been recognized by those of ordinary skill in the art as resulting in an improved
system that would allow a digital means of providing transfer agents with the voting
information they need to compile voting results at a central location, eliminating the
need for a transfer agent to be present at each voting location.

As per claim 15, although Bayer et al. teaches the use of a network **(network 20;**
the network is the Internet or World Wide Web, but other wide area networks may
be used) [Column 5, lines 17-19] to send email messages **(invitation 57)**, [Figures 1,
10] and provide access to websites on a network **(network server 12 operates in**
accordance with software representing programming instructions providing a
voting site 22 and a registration site 24 on network 20) [Column 5, lines 42-44], but
does not explicitly disclose that said email to voters is delivered via an internal network,
that said website access is provided via the internal network, or that email messages to
the transfer agent are delivered via an external network.

However, it has been admitted as prior art, as a result of evidentiary support of
Official Notice taken that it is old and well known in the computing arts that email and
website access may be provided using internal and/or external networks. For example,
an intranet (i.e., internal) network may be a localized version of the Internet, confined to
an organization, whereas an external network (i.e., extranets, the Internet), may be
accessed by users spanning multiple organizations. Therefore, it would have been
obvious to one of ordinary skill in the art at the time of invention to modify the teachings
of Bayer et al. to use internal networks to provide website access, because doing so
limits access to websites to local users of a network (in an internal network), which
prevents participation by unauthorized voters from external networks. Similarly, it would
have been obvious to one of ordinary skill in the art at the time of invention to use
internal networks to provide email to voters located within a local network to limit voter

participation to authorized voters, and use external networks to email parties such as transfer agents located outside the internal network, because doing so enhances Bayer et al. by allowing users to provide access to information only to specifically authorized parties located outside the internal network.

Further, one of ordinary skill would have recognized that using internal networks for voting and external networks for send voting information e-mails to transfer agents in order to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of internal networks to conduct voting would have been recognized by those of ordinary skill in the art as resulting in an improved system that would only allow users with proper access authorization to participate in the election as a means of preventing voter fraud and ballot tampering. Similarly, applying the use of external networks to send voting information e-mails to transfer agents would have been recognized by those of ordinary skill in the art as resulting in an improved system that provides users with a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

12.　　Claims 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bayer et al. (US Patent #6,311,190) and further in view of Kilian et al. (US Patent

#6,092,051).

　　　　As per claim 35, Bayer et al. teaches a voting system, comprising:

　　　　a first network **(network 20 of Figure 1)**;

　　　　a voting server **(network server 12 of Figure 1)** operably coupled to the first

network; and

　　　　a plurality of clients **(computer 18 of Figure 1)** operably coupled to the first

network, where each of the plurality of clients provides access to the voting server to a

portion of a plurality of potential voters, wherein the voting server performs functions

that include:

　　　　　　　receiving consent **(registration)** information corresponding to at least a

portion of the plurality of potential voters based on responses **(user name, password**

and email address) provided by the at least a portion of the plurality of potential voters

via the content **(registration)** website [Column 19, lines 24-30];

　　　　　　　determining the plurality of eligible voters **(authenticating validation)**

from the at least a potion of the plurality of potential **(registered)** voters based on the

consent **(registration)** information [Column 28, lines 13-14];

　　　　　　　sending voting notification email message to the plurality of eligible voters

(solicit voters to a particular voting campaign by e-mail with a hyperlink to the

URL of a voting campaign) [Column 18, lines 45-60], wherein the voting notification

email messages provide access to a voting website **(an embedded hyperlink to a**

particular URL of an associated registration campaign may be provided in the

results page provided by the voting site, such that a voter at the voting site may

link to the associated registration campaign at the registration site) managed by

the voting server **(voting site 22, registration site 24; in addition to enabling voting**

on surveys in multiple campaigns at voting site 22, system 10 allows voters, or

other registrants, to register under one of multiple registration campaigns

through a registration questionnaire at registration site 24) [Column 13, lines 56-

58, Column 18, lines 45-60];

> for each eligible voter of the plurality of eligible voters that accesses the

voting website, validating **(authenticating)** identity of the eligible **(registered)** voter to

produce a validated voter **(step 242)** [Column 28, lines 13-14];

> receiving voting information **(answers to survey questions)** from

validated voters [Claim 1]; and

> compiling the voting information **(adding received answers to**

information stored in a database) from the validated voters to produce the voting

result [Claim 5].

Although Bayer et al. teaches sending/transmitting electronic data between

parties in an election, Bayer et al. does not explicitly teach the step of securely

transferring the voting result in electronic form to an agent system. However, Kilian et

al. teaches securely transferring the voting result in electronic form to an agent system

(voting using a "secure untappable channel", where a message can be sent from

a center without being accessed or detected by another party; Each voter

submits one of the received votes to the counting center through a secure

anonymous channel. Then the counting center tallies the votes; The vote chosen

by the vote choosers are transferred anonymously through a secure anonymous

channel 18 to a vote counting center 15. The secure anonymous channel can be

realized by the mixing centers 14 where encrypted votes are successively

processed by the mixing centers until the vote counting center 16 provides as its

output a randomly untraceably ordered set of unencrypted votes, and the

outcome of the tally; The vote chooser 12 follows the process verification 24 and

selection 2, and outputs selected votes from the encrypted votes on the bulletin

board. The selected votes of all the vote choosers 12 are anonymously

transferred to vote counter 15 through anonymous channel 18) [Column 1, lines

57-62; Column 2, lines 47-49, Column 3, lines 29-42, Column 7, lines 18-21].

        Both Bayer et al. and Kilian et al. are directed towards conducting electronic

voting elections; therefore, they are analogous references. Therefore, it would have

been obvious to one of ordinary skill in the art at the time of invention to modify the

teachings of Bayer et al. to include the step of securely transferring voting results in

electronic form to an agent system, as taught by Kilian et al., because doing so enables

Bayer et al. to maintain the confidentiality of the voting process while preventing

tampering and forgery and also provides voting results to a third party for processing,

tallying, validation and verification.

As per claim 36, Bayer et al. teaches the voting system of claim 35 wherein the

functions performed by the voting server further include:

sending an email message to potential voters **(solicit voters to a particular**

voting campaign by e-mail with a hyperlink to the URL of a voting campaign)

[Column 18, lines 45-60].

As per claim 37, Bayer et al. teaches the voting system of claim 35 further

comprising:

a voting server **(network server 12 of Figure 1)** compiles the voting information

such that compiling includes:

generating at least one email message **(solicit voters to a particular**

voting campaign by e-mail) and storing voting information in a database **(answers to**

survey questions received from each voter) [Claim 5].

Bayer et al. does not explicitly teach that transfer agents are sent emails voting

information corresponding to eligible voters for compilation and producing the voting

result.

However, it has been admitted as prior art, as a result of evidentiary support of

Official Notice taken that the use of transfer agents to oversee the polling and counting

of votes in an election are old and well known in the art. For example, banks and voting

officials act as proxies that administer elections, tally votes, and determine winners.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of

invention to modify the teachings of Bayer et al. to include emailing messages including

voting information to transfer agents for compilation and determination of a winner,

because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so

that received votes can be tallied and verified and a winner can be determined while

ensuring that ballots are not tampered with in case of a need of a recount.

Further, one of ordinary skill would have recognized that using email to send

transfer agents the voting information necessary to compile said voting information

would have yielded predictable results and resulted in an improved system. Applying

the use of emails to provide transfer agents with the information needed to compile

voting results would have been recognized by those of ordinary skill in the art as

resulting in an improved system that would allow a digital means of providing transfer

agents with the voting information they need to compile voting results at a central

location, eliminating the need for a transfer agent to be present at each voting location.

Bayer et al. is also silent regarding the presence of a second network coupled to

the voting server and a transfer agent being operably coupled to that second network.

However, it has been admitted as prior art, as a result of evidentiary support of

Official Notice taken that it is old and well known in the computing arts that email and

website access may be provided using internal and/or external networks. For example,

an intranet (i.e., internal) network may be a localized version of the Internet, confined to

an organization, whereas an external network (i.e., extranets, the Internet), may be

accessed by users spanning multiple organizations. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of invention to use external

networks coupled to the network of Bayer et al., because doing so enhances Bayer et

al. by allowing users to provide access to information by email only to specifically

authorized parties located outside the existing network.

Further, one of ordinary skill would have recognized that using internal networks

for voting and external networks for send voting information e-mails to transfer agents in

order to compile said voting information would have yielded predictable results and

resulted in an improved system. Applying the use of internal networks to conduct voting

would have been recognized by those of ordinary skill in the art as resulting in an

improved system that would only allow users with proper access authorization to

participate in the election as a means of preventing voter fraud and ballot tampering.

Similarly, applying the use of external networks to send voting information e-mails to

transfer agents would have been recognized by those of ordinary skill in the art as

resulting in an improved system that provides users with a digital means of providing

transfer agents with the voting information they need to compile voting results at a

central location, eliminating the need for a transfer agent to be present at each voting

location.

As per claim 38, Bayer et al. teaches a voting system wherein the first network is

a secure internal network **{network 20 requires authentication of users to access**

voting site 22}.

Bayer et al. does not explicitly teach a second, external network, or that the

voting information included in the at least one transfer agent email message is

encrypted prior to being sent to the transfer agent.

However, it has been admitted as prior art, as a result of evidentiary support of

Official Notice taken that it is old and well known in the computing arts that email and

website access may be provided using internal and/or external networks. For example,

an intranet (i.e., internal) network may be a localized version of the Internet, confined to

an organization, whereas an external network (i.e., extranets, the Internet), may be

accessed by users spanning multiple organizations. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of invention to use external

networks coupled to the network of Bayer et al., because doing so enhances Bayer et

al. by allowing users to provide access to information by email only to specifically

authorized parties located outside the existing network.

Further, one of ordinary skill would have recognized that using internal networks

for voting and external networks for send voting information e-mails to transfer agents in

order to compile said voting information would have yielded predictable results and

resulted in an improved system. Applying the use of internal networks to conduct voting

would have been recognized by those of ordinary skill in the art as resulting in an

improved system that would only allow users with proper access authorization to

participate in the election as a means of preventing voter fraud and ballot tampering.

Similarly, applying the use of external networks to send voting information e-mails to

transfer agents would have been recognized by those of ordinary skill in the art as

resulting in an improved system that provides users with a digital means of providing

transfer agents with the voting information they need to compile voting results at a

central location, eliminating the need for a transfer agent to be present at each voting

location.

Further, it has been admitted as prior art, as a result of evidentiary support of

Official Notice taken that email encryption is old and well known in the art. Therefore, it

would have been obvious to one of ordinary skill to modify the teachings of Bayer et al.

by including the encryption of email messages, because doing so enhances Bayer et al.

by ensuring voter privacy and preventing tampering with election results.

One of ordinary skill would have recognized that using email data encryption to

send emails with voting information to transfer agents would result in an improved

system. Applying email encryption to the teachings of Bayer et al. would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a secure providing information while preventing tampering and forgery.

As per claim 39, Bayer et al. teaches the step of a broker server **(network server 12)** collecting voting information from a plurality of broker clients **(registered voters)**, and compiling said collected voting information to produce the voting result **(received answers to the questions are added to records in the database tallying the totals for each response… a summary of the results of the survey is then constructed and transmitted to the voter's computer)** [Abstract]

Bayer et al. does not explicitly teach a second, external network used to send (i.e., forward) voting information to the transfer agent in the at least one transfer agent email message or the use of a transfer agent to compile the voting information in the at least one transfer agent email message with the broker client voting information to produce the voting result.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks. For example, an intranet (i.e., internal) network may be a localized version of the Internet, confined to an organization, whereas an external network (i.e., extranets, the Internet), may be accessed by users spanning multiple organizations. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of invention to use external

networks coupled to the network of Bayer et al., because doing so enhances Bayer et

al. by allowing users to provide access to information by email only to specifically

authorized parties located outside the existing network.

      Further, one of ordinary skill would have recognized that using internal networks

for voting and external networks for send voting information e-mails to transfer agents in

order to compile said voting information would have yielded predictable results and

resulted in an improved system. Applying the use of internal networks to conduct voting

would have been recognized by those of ordinary skill in the art as resulting in an

improved system that would only allow users with proper access authorization to

participate in the election as a means of preventing voter fraud and ballot tampering.

Similarly, applying the use of external networks to send voting information e-mails to

transfer agents would have been recognized by those of ordinary skill in the art as

resulting in an improved system that provides users with a digital means of providing

transfer agents with the voting information they need to compile voting results at a

central location, eliminating the need for a transfer agent to be present at each voting

location.

      Further, it has been admitted as prior art, as a result of evidentiary support of

Official Notice taken that the use of transfer agents to oversee the polling and counting

of votes in an election are old and well known in the art. For example, banks and voting

officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

One of ordinary skill would have recognized that using email to send transfer agents the voting information necessary to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of emails to provide transfer agents with the information needed to compile voting results would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

Conclusion

13.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Challener et al. (US Patent #6,081,793) teaches a method and system for secure computer moderated voting where one or more cryptographic operations are utilized to encrypt data flows between the voter and the authentication servers, journal servers and results servers. Data processing systems record the ballot number and voter ID as being "used" to prevent a particular voter from voting again in an election. If the PIN number entered by the voter matches the PIN number read by the smart card reader, the data processing system encrypts the voter identification with the public key of the authentication server. The voter then uses a PC to encrypt the completed ballot using the public key of the results server. The system also utilizes encryption in a manner which allows the results server to perform all the functions associated with tabulation of the votes, correction of votes, and the challenge of votes, as well as a journal server to record the votes in a manner which secures the voter's identity and the content of the completed vote.

Fischer (US Patent #6,021,200) teaches a system for the anonymous counting of information items for statistical purposes, especially in electronic voting. Counting and verification units are functionally and structurally separate, and Fischer uses public keys to encrypt and encipher data. A second implementation of Fischer is to provide a remote secure statistical consumption survey system.

Chaum (US 2001/0034640) provides secret (encrypted) ballots that are sent over networks to trustees that are responsible for tabulating results while preventing

colluding subsets of trustees from being able to improperly modify the outcome of the
election or violate the privacy of individual voters.

Chisholm (US Patent #5,400,248) teaches a computer network based conditional
voting system where a vote administrator may specify and store settings for an election
in a database, including vote weightings (i.e., the number of votes each voter has in an
election). Vote weightings specify whether all votes will be weighted equally or some
votes are weighted differently from each other. If voter x's vote is weighted by the factor
$W(x)$, $0 \leq W(x)$, then voter x's vote will be treated as $W(x)$ separate votes in final
tabulations of all of the votes.

Blumberg (US Patent #6,240,415) teaches a corporate and entertainment
management interactive system using a computer network. There are different levels in
the hierarchy of remote users having a different weight for their respective votes,
opinions or decisions. The different weights of different voters opinions can be based
on a plurality of relevant factors. The votes or decisions can be transmitted to the
central database and the outcome of the vote with weighted analysis is accomplished
through the Internet Participant Interaction Entertainment.

Davis et al. (US Patent #5,583,329) teaches a direct recording electronic voting
machine and voting process. A central election database contains voter registration
lists. Election officials insert a specially programmed supervisor personalized electronic

ballot (PEB) into each voting terminal to transfer the vote tally stored within the voting

terminal to the memory of the special supervisor PEB. The supervisor PEB is

configured for retrieving and storing the running vote tally in each voting terminal and for

printing the election results of the voting terminal, using a supervisor terminal. The

supervisor PEB transmits a control signal to voting machine 16 for transferring the

running tally to the memory of the PEB.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to PETER CHOI whose telephone number is (571)272-

6971. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

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January 28, 2009

/P. C./
Examiner, Art Unit 3623

/Jonathan G. Sterrett/

Primary Examiner, Art Unit 3623